



ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
MEETING MINUTES
August 8, 2008
Supreme Court Building, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rebecca Albrecht
Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Ms. Helen Davis
Prof. Ira Ellman
Ms Kim Gillespie
Ms Cele Hancock
Mr. David Horowitz
Comm. Rhonda Repp
Hon. Michala Ruechel
Hon Kevin White

STAFF:

Kathy Sekardi
Lorraine Nevarez

MEMBERS ABSENT:

Ms Gloria Pearson
Hon. Sarah Simmons

GUESTS PRESENT:

Tara Ellman
Patricia Madsen
Don Vert

Call to Order

Judge Cohen, Chair, called the meeting to order at 10:17 a.m. and welcomed the members.

Judge Cohen made the following announcements:

1. The December 9th meeting date has been rescheduled to December 16, 2008 with the location still to be determined.
2. A memo was distributed to all the Presiding Judges and Court Administrators asking for input or suggestions they may have for the Guidelines.

Approval of the Minutes

Professor Ira Ellman suggested replacing the minute language describing the "Constructing Support Guidelines, Part 1" with an attachment he prepared. The minutes were approved and seconded as modified.

MOTION: To modify the June 27, 2008 minutes by replacing the minute language with Ira Ellman's attachment and approve as modified.

Presentation by Tara Ellman

Tara Ellman's presentation, entitled "A Tool for Creating Child Support Guidelines," explained the design and use of an Excel spreadsheet program she wrote and plans to make available to the committee members for their use. The purpose of the program is to make it practical to evaluate a variety of child support guidelines approaches. The user can fairly easily specify assumptions about the guidelines, and the program then computes outcomes for the post-separation custodial and non-custodial households. Users can change assumptions and evaluate the outcomes as often as desired. The input of the program is flexible, so that a variety of different approaches can be evaluated.

The current version of the program computes two types of outcomes; (1) the child support payment as a proportion of the NCP's income and (2) the standards of living of both the CP and NCP households. Measuring standards of living presents theoretical and practical issues which Ms Ellman discussed in detail. Benchmarks need to be established for minimally adequate incomes and middle class incomes for different size households. Possible benchmark sources are the official federal poverty levels, budget-based standards such as those created by the Economic Policy Institute (EPI), and the results of the Pima County July Pool Surveys recently conducted by Professors Ira Ellman and Sanford Braver of Arizona State University. Ms Ellman emphasized that, since none are perfect, it is important that users understand whatever benchmarks are used. A consultant has already been hired to help the committee choose standard of living benchmarks.

Ms Ellman went on to explain briefly how to input assumptions into the spreadsheets and to interpret the output. All of the examples she displayed used the current Arizona guidelines. She pointed out the patterns of outcomes the income-shares model, including Arizona's current guidelines, produce.

Questions from Dr. Burt Barnow

Staff explained that Dr. Barnow has started work on phase II and he has proposed a few questions regarding the details of Task 1. Dr. Barnow is requesting guidance from the committee regarding the following issues:

- (1) Is it okay to use the EPI data?
- (2) To get data for larger families, the plan is to use the equivalence scales from the National Academy of Sciences poverty study. We could use one of the Census Bureau variations, but might want to use the NAS unless there are other suggestions.
- (3) To get state data, we either need to use a high-cost area such as Phoenix or take a weighted average. Is there a preference?

The Committee voted in the affirmative as to questions (1) and (2) and prefers to use a weighted average based upon population for question (3).

Deviation definition/calculations for case file review

Judge Cohen informed the committee the Consultant will be assessing the number of deviation cases in the case file review. Judge Cohen asks the committee to consider the proposed definition for what constitutes a deviation. Should there be two standards/calculations? One standard or calculation would be to calculate the total number of deviations under the present standard. Then, the second standard or calculation would be for a deviation that is greater than x%.

This will allow the committee to examine the hypothesis that there have been a low number of true deviations. The committee would like to know if the Consultant in Phase I would conduct two calculations:

- (1) Measure of total percentage of cases that deviate from application of the guidelines, and
- (2) Of the cases that have been determined to be deviations, what percentage are a deviation by the greater of $\pm 5\%$ or \$25.

Reports from Task Groups

- A. ***Case Law/Legislative Updates/ARFLP***: Task group member Cele Hancock will be speaking at the State Bar Arizona Rules Family Law Procedure Committee meeting to discuss any concerns they may have with the Guidelines.
- B. ***Income Determination***: The task group has nothing to report at this time.
- C. ***IV-D***: The task group has been discussing medical support and how much information is factored into the worksheet. There is a new statute regarding cash medical support and new federal regulations that need to be followed. The task group will determine where the state has options and how these options get incorporated into the guidelines.
- D. ***Adjustments to Income***: The task group has nothing to report at this time.
- E. The Committee has established a new task group entitled “***Spreadsheet Study Task Group***.” The following members will form this task group:
 - Ira Ellman – Task Group Facilitator
 - Kim Gillespie
 - Gloria Pearson
 - Hon. Rebecca Albrecht
 - Tara Ellman
 - David Horowitz

Since Prof. Ellman is Group Facilitator of the Spreadsheet Study Task Group, committee member David Horowitz will become the Group Facilitator for the Income Determination task group.

Review, Discuss and Assign Website Comments

(To review the entire comments visit: <http://www.supreme.state.az.us/csgrc/>)

1. Public comments on webpage:

a. Guideline Section 1. Purpose

Question: “How can Arizona’s child support guidelines be appropriately applied across international boundaries, especially to an economy so profoundly different from the U.S. economy s the Mexican economy?”

Question: How can Arizona assume jurisdiction over persons, particularly children, who are not citizens, do not reside in the U.S., and never have?”

Committee response: This issue is addressed already by way of statute and UIFSA. This is not a guideline issue.

b. Guideline Section 2. Premises

Comment: “The income brackets need to go much higher. It would be good to see a clear child support amount that took into account income for one of the party’s at over \$400,000 a year or \$35,000 a month.”

Committee response: The Committee will examine this issue and assign to an appropriate task group.

c. Guideline Section 4. Duration of Child Support

Comment: “I recently suggested to a client that he contact his employer and point out the automatic termination language in the order of assignment for purposes of ceasing withholding of child support...apparently the employer responded that the company will still require a termination order from the Superior Court. Is this something we need to address more specifically with the Order of Assignment form and/or the instruction/cover letter that goes to employers when they are served with the Order?”

Committee response: It appears as though there are two issues regarding: 1. A legal obligation, and 2. Terminating a child support order. A suggestion was made to include a statement in the guidelines that state something to the effect that even if there is a “presumptive termination date” the person paying child support must still take steps to terminate the underlying child support order. The fact that the child emancipates doesn’t mean child support won’t be garnished from paychecks. The Committee discussed placing instructions on wage assignment orders. No final consensus on this issue.

2. Ronald Somner’s comment:

a. Guideline Section 12 Equal Custody

Comment: “...many support orders are being calculated by people acting in pro per, with no small disadvantage to the lower-income parent when there is an argument whether Table A or B of § 11 applies.”

Committee response: The Committee is considering the submitted comment.

b. Guideline Section 26 Income or Benefits Received by a Child

Comment: “...I think it might be helpful to clarify with regard benefits received by the parent receiving support by striking the phrase in the

current 26© “and not on behalf of a child,” so as to eliminate any implication that benefits received “on behalf of a child” are not to be counted as part of the custodial parent’s income....”

Committee response: The Committee will consider the submitted comment.

3. Roger Hartsell’s comments:

a. Spousal maintenance awards

Committee response: The issue concerning spousal maintenance awards will be assigned to an appropriate task group which will speak to an overall modification as information and education to guideline users.

b. Taxable vs. non-taxable income

Committee response: The issue concerning taxable versus non-taxable income for purposes of calculating child support will be assigned to the *Income Determination Task Group* to consider, not necessarily implement.

Discuss Other Items to Add to Agenda List

The Chair reminded members to assist in identifying issues and/or bring forward any issues to the Committee for discussion. This will be a reoccurring agenda item.

Develop September 2, 2008 Agenda

The Committee task groups will report to the full committee, the September 26th agenda will be developed, and the Committee will finish reviewing public and on-line comments.

Call to the Public

Public member Patricia Madsen, Senior Family Law Attorney, Community Legal Services introduced herself and volunteered to be of assistance to the Committee. Patricia Madsen joined the Adjustments to Income task group.

Adjourn

The meeting was adjourned at 2:00 p.m.